

David R. Vance

From: Patrick J. Hoban
Sent: Friday, September 16, 2016 4:59 PM
To: Flanagan, Todd (Todd.Flanagan@nflpa.com); Heather McPhee (Heather.McPhee@nflpa.com); Briggs, Joe D.
Cc: Stephen S. Zashin; David R. Vance
Subject: FW: Lane Johnson -- FW: RE:

Heather, Todd, Joe –

Kevin Manara, in his email below, asserts that the NFL is now the custodian of the Independent Administrator's records concerning Lane's health and medical testing. In short, the NFL takes the position that it has more right to Mr. Johnson's health records than he does. This is likely a violation of HIPAA, as well as other statutes concerning access to employment records and medical information.

The NFL's position seriously undermines the Policy which states in Section 2.1 that the Independent Administrator shall:

- be a neutral party;
- act in good faith and with **equal obligation** to the NFLPA and the NFL;
- **report equally, promptly and contemporaneously to both the NFLPA and NFL regarding all correspondence and relevant information;** and
- **seek guidance from both parties when exercising responsibilities under the Policy.**

As to this last point, we can only assume that Dr. Lombardo did not reach out to the NFLPA before denying Lane access to his personal medical information.

As you know, Section 2 of the Policy states that the Independent Administrator is jointly appointed and paid by the NFL and the NFLPA. That the NFL took sole custody and control of the Independent Administrator's records concerning Lane, with the Independent Administrator's active cooperation, is stunning and strikes us as a breach of the spirit and letter of the Policy and the NFLPA and Lane's rights thereunder.

Furthermore, there is no provision in the policy limiting a player's access to his personal testing records -- whether a request is made before or after the player appeals discipline. Moreover, notwithstanding the discovery process identified in Policy Section 11, there is no "clear and unmistakable" waiver of rights under the NLRA in the Policy and the NFL's refusal to provide presumptively relevant information concerning Lane's terms and conditions of employment violates the Act. An unfair labor practice charge is in order.

We would appreciate your comment on the NFL's response to this simple and legitimate request. Please let us know when on Monday you are available for a call.

Best,

Pat



ZASHIN & RICH

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From: Manara, Kevin [<mailto:Kevin.Manara@NFL.com>]
Sent: Friday, September 16, 2016 4:00 PM
To: David R. Vance
Cc: Stephen S. Zashin; Patrick J. Hoban; Flanagan, Todd (Todd.Flanagan@nflpa.com); Heather McPhee (Heather.McPhee@nflpa.com); Carroll, Meghan
Subject: RE: Lane Johnson -- FW: RE:

David,

Section 11 of the Policy on Performance-Enhancing Substances is quite clear regarding procedures for pre-hearing discovery. To the extent you have such requests, you should submit them to me – not from the player to the Independent Administrator in a transparent attempt to circumvent the Policy's collectively-bargained procedures.

While we are under no obligation to respond to the requests you improperly submitted to Dr. Lombardo, as a courtesy, please be advised that we object to all three requests as overbroad, irrelevant, unduly burdensome, and beyond the scope of discovery contemplated by the Policy.

Kevin Manara

From: David R. Vance [<mailto:drv@zrlaw.com>]
Sent: Friday, September 16, 2016 11:15 AM
To: Manara, Kevin <Kevin.Manara@NFL.com>
Cc: Stephen S. Zashin <ssz@zrlaw.com>; Patrick J. Hoban <pjh@zrlaw.com>; dljphilly65@gmail.com; ken.sarnoff@gmail.com; Flanagan, Todd (Todd.Flanagan@nflpa.com) <Todd.Flanagan@nflpa.com>; jlombardo@drjalombardo.com
Subject: Lane Johnson -- FW: RE:

Kevin,

Regarding the email chain below, I am unaware of a provision prohibiting the Independent Administrator from providing information to a player, after the player files an appeal. Is there another policy, separate and apart from the NFL Policy on Performance-Enhancing Substances 2015, that prohibits the Independent Administrator from providing the documents requested by Mr. Johnson? If not, please confirm with Dr. Lombardo that he may provide the information requested to Mr. Johnson.

Additionally, is the NFL in possession of the materials Mr. Johnson requested from Dr. Lombardo? If so, please provide them to me.

Best,
David



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Begin forwarded message:

From: "jlombardo@drjalombardo.com" <jlombardo@drjalombardo.com>
Date: September 15, 2016 at 8:51:09 PM EDT
To: Lane Johnson
Cc: "Kevin Manara (kevin.manara@nfl.com)" <kevin.manara@nfl.com>
Subject: RE:

Mr. Johnson,

Since your case is now in an appeal, all information requests must go through the NFL Management Council. I have copied Mr. Kevin Manara, the NFL Management Council attorney whom can be contacted with any requests.

John A. Lombardo, MD
Independent Administrator of the NFL Policy on
Performance Enhancing Substances
p. 614-620-6052
e. jlombardo@drjalombardo.com

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-----Original Message-----

From: Lane Johnson |
Sent: Thursday, September 15, 2016 8:21 PM
To: jlombardo@drjalombardo.com

Subject:

Dr. Lombardo:

Please provide me the following documents:

1. All communications you have ever sent me; 2. Any file you maintain regarding me; and 3. Any documents reflecting my testing history.

Thank you.

Lane Johnson

Sent from my iPhone